

## Union Calendar No. 270

100TH CONGRESS  
1ST SESSION**H. R. 3235****[Report No. 100-417]**

To amend the Public Health Service Act to revise the program of assistance for health maintenance organizations.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 7, 1987

Mr. WAXMAN introduced the following bill; which was referred to the Committee on Energy and Commerce

OCTOBER 30, 1987

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on August 7, 1987]

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**A BILL**

To amend the Public Health Service Act to revise the program of assistance for health maintenance organizations.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE, REFERENCE.**

4       (a) *SHORT TITLE.*—*This Act may be cited as the*  
5       *“Health Maintenance Organization Amendments of 1987”.*

1       (b) *REFERENCE.*—Whenever in this Act (other than in  
 2 section 6(a)) an amendment or repeal is expressed in terms of  
 3 an amendment to, or repeal of, a section or other provision,  
 4 the reference shall be considered to be made to a section or  
 5 other provision of the Public Health Service Act.

6 **SEC. 2. ORGANIZATIONAL STRUCTURE.**

7       Section 1301(a) (42 U.S.C. 300e(a)) is amended by  
 8 striking out “legal entity” and inserting in lieu thereof  
 9 “public or private entity which is organized under the laws of  
 10 any State and”.

11 **SEC. 3. DEDUCTIBLES.**

12       Section 1301(b)(1) (42 U.S.C. 300e(b)(1)) is amended  
 13 by adding after the second sentence the following: “If a  
 14 health maintenance organization offers to its members the op-  
 15 portunity to obtain basic health services through a physician  
 16 not described in subsection (b)(3)(A), the organization may  
 17 require, in addition to payments described in clause (D) of  
 18 this paragraph, a reasonable deductible to be paid by a  
 19 member when obtaining a basic health service from such a  
 20 physician.”.

21 **SEC. 4. PHYSICIAN SERVICES.**

22       (a) *GENERAL RULE.*—Section 1301(b)(3)(A) (42  
 23 U.S.C. 300e(b)(3)(A)) is amended by striking out “the serv-  
 24 ices of a physician which are provided as basic health serv-  
 25 ices shall be provided” and insert in lieu thereof “at least 90

1 percent of the services of a physician which are provided as  
2 basic health services shall be provided”.

3 (b) *DUAL-CHOICE*.—Section 1310(b) (42 U.S.C.  
4 300e-9(b)) is amended—

5 (1) in paragraph (1), by inserting before the  
6 comma at the end the following: “and provides at least  
7 90 percent of such services through physicians de-  
8 scribed in section 1301(b)(3)(A)”, and

9 (2) in paragraph (2), by inserting before the  
10 comma at the end the following: “and provides no more  
11 than 10 percent of such services through physicians  
12 who are not described in section 1301(b)(3)(A)”.

13 **SEC. 5. ORGANIZATION.**

14 Paragraph (5) of section 1301(c) (42 U.S.C. 300e(c))  
15 is repealed and paragraphs (6) through (9) are redesignated  
16 as paragraphs (5) through (8), respectively.

17 **SEC. 6. DEFINITIONS.**

18 (a) *ORGAN TRANSPLANTS*.—Subsection (b) of section  
19 812 of the Health Maintenance Organization Amendments of  
20 1986 (42 U.S.C. 300e-1 note) is repealed.

21 (b) *COMMUNITY RATING*.—The third sentence of sec-  
22 tion 1302(8)(C) (42 U.S.C. 300e-1(8)(C)) is amended to  
23 read as follows: “If a health maintenance organization is to  
24 fix rates of payment for individuals and families by groups,  
25 it shall—

1           “(i)(I) classify all of the members of the organiza-  
2           tion into classes based on factors which the health  
3           maintenance organization determines predict the differ-  
4           ences in the use of health services by the individuals or  
5           families in each class and which have not been disap-  
6           proved by the Secretary,

7           “(II) determine its revenue requirements for pro-  
8           viding services to the members of each class established  
9           under subclause (I), and

10           “(III) fix the rates of payments for the individ-  
11           uals and families of a group on the basis of a compos-  
12           ite of the organization’s revenue requirements deter-  
13           mined under subclause (II) for providing services to  
14           them as members of the classes established under sub-  
15           clause (I), or

16           “(ii) fix the rates of payments for the individuals  
17           and families of a group on the basis of the organiza-  
18           tion’s revenue requirements for providing services to  
19           the group, except that the rates of payments for the in-  
20           dividuals and families of a group of less than 100 per-  
21           sons may not be fixed at rates greater than 120 percent  
22           of the rate that would be fixed for such individuals and  
23           families under subparagraph (B) or clause (i) of this  
24           subparagraph.”.

1 *SEC. 7. EMPLOYEES' HEALTH BENEFIT PLANS.*

2 *(a) STATES AND POLITICAL SUBDIVISIONS.—*

3 *(1) Section 1310(b) (42 U.S.C. 300e-9(b)) is*  
4 *amended (A) by striking out “subject to subsection*  
5 *(a)” and inserting in lieu thereof “or a State or politi-*  
6 *cal subdivision”, and (B) by striking out “employer*  
7 *pursuant” and inserting in lieu thereof “employer or*  
8 *State or political subdivision pursuant”.*

9 *(2) Section 1310(c) (42 U.S.C. 300e-9(c)) is*  
10 *amended by inserting “or State or political subdivi-*  
11 *sion” after “employer” each place it occurs.*

12 *(b) DISCRIMINATION.—Section 1310(c) (42 U.S.C.*  
13 *300e-9(c)) is amended by adding at the end the following:*  
14 *“If a health benefits plan offered by an employer or a State*  
15 *or political subdivision includes contributions for services of-*  
16 *fered under the plan, the employer or State or political subdivi-*  
17 *vision shall make a contribution under the plan for services*  
18 *offered by a qualified health maintenance organization in an*  
19 *amount which does not financially discriminate against an*  
20 *employee who enrolls in such organization. For purposes of*  
21 *the preceding sentence, an employer’s contribution does not*  
22 *financially discriminate if the employer’s method of deter-*  
23 *mining the contributions on behalf of all employees is reason-*  
24 *able and is designed to assure employees a fair choice among*  
25 *health benefits plans.”.*

1 **SEC. 8. RESTRICTIVE STATE LAWS.**

2       Section 1311(a)(1) (42 U.S.C. 300e-10(a)(1)) is  
3 amended by striking out “or” at the end of subparagraph  
4 (C), by striking out “, and” at the end of subparagraph (D)  
5 and inserting in lieu thereof “, or”, and by adding at the end  
6 the following:

7                       “(E) imposes requirements which would pro-  
8                       hibit the entity from complying with the require-  
9                       ments of this title, and”.

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